



Rule Fact Sheet

October 13, 1999

DEVELOPMENT OF NEW RULES CONCERNING PUBLIC RECORDS; CONFIDENTIAL INFORMATION; CONFIDENTIALITY AGREEMENTS.

LSA Document #97-12

Overview

The program areas of air, waste and water within the Indiana Department of Environmental Management (IDEM) are working together to develop new rule language regarding public records and confidential information for clarification and to make changes so that IDEM's rule are consistent with recent changes to IC 5-14-3.

Citations Affected

Adds: 327 IAC 12.1

Amends: 327 IAC 5-2-18, and 327 IAC 5-11-4

Repeals: 327 IAC 12

Affected Persons

Persons requesting confidential treatment of information and requesting copies of confidential information and public records.

Reason(s) for the Rule

This purpose of this rulemaking is to assure that confidential materials can be handled consistently across the IDEM program areas. The new rules will allow a program area to simplify the procedure and streamline the confidentiality determination process.

Economic Impact of the Rule

This rule will save the state money and time by making the confidentiality determination process more streamlined, concise, and complete. It will not result in cost increases to regulated entities or members of the public.

Benefits of the Rule

This rulemaking requesting access to public records, will make the process more understandable to persons requesting information to be held confidential.

Description of the Rulemaking Project

This rulemaking will ensure that water pollution control board rules meet all statutory requirements of IC 5-14-3 and IC 13-14-11. It will also create new language concerning public records and confidentiality to correct any confusing provisions in

the existing rules, and to simplify the procedures for making determinations on claims of confidentiality.

Scheduled Hearings

First Public Hearing: March 10, 1999, 1:30 P.M. at the WPCB meeting held at the Indiana Government Center South Conference Center, Conference Room C.

Second Public Hearing: October 13, 1999, 1:30 P.M. at the WPCB meeting held at the Indiana Government Center South Conference Center, Rooms 1 and 2.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The rule is consistent with the Clean Water Act, the Safe Drinking Water Act, and federal regulations pursuant to these laws.

Rulemaking Process

A first notice of comment period for the proposed rule was published in the *Indiana Register*. This includes a discussion of issues and opens a public comment (30 days) period. A second notice of comment period is then published which contains any comments and IDEM responses from the first comment period, a notice of first meeting/hearing, and the draft rule. This opens another public comment (30 days) period. The Water Pollution Control Board holds the first meeting/hearing and public comments are presented. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third notice of public comment period is required. The second public meeting/hearing is held and public comments are presented. Once final adoption occurs, the rule becomes effective 30 days after filing with the Secretary of State.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Kari Simonelic, Rules Section, Office of Water Management, (317) 233-8903 or (800) 451-6027 (in Indiana).